



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

**MEMORANDUM**

**TO:** THE COMMISSION  
STAFF DIRECTOR  
GENERAL COUNSEL  
FEC PRESS OFFICE  
FEC PUBLIC RECORDS

**FROM:** COMMISSION SECRETARY *MW*

**DATE:** March 30, 2004

**SUBJECT:** COMMENTS: PROPOSED AO 2004-08

Transmitted herewith are two timely submitted comments from Mr. Jess J. Waguespack and Mr. Charles L. Thibaut regarding the above-captioned matter.

Proposed Advisory Opinion 2004-08 is on the agenda for Thursday, April 1, 2004.

**Attachments**

**JESS J. WAGUESPACK**

ATTORNEY AT LAW

BOARD CERTIFIED TAX ATTORNEY

BOARD CERTIFIED ESTATE PLANNING AND ADMINISTRATION SPECIALIST

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March 29, 2004

**VIA FAX (202) 208-3333**

Ms. Mary Dove, Commission Secretary  
 Federal Election Commission  
 999 E Street NW  
 Washington, DC 20463

RE: Draft Advisor Opinion 2004-08: American Sugar Cane League

Dear Ms. Dove:

I make this response to the captioned as a friend of Mr. Charles Melancon.

The request for advisory opinion by the American Sugar Cane League, Inc. (ASCL) failed to mention that several years prior to Charles Melancon even thinking about running for Congress, he had considered and discussed resigning his position with ASCL to pursue other opportunities. This was partially precipitated by a faction of the ASCL board that was not in full support of Mr. Melancon's policies and programs. At that time, it was discussed by members of the ASCL Board that if Mr. Melancon resigned, he *would be* granted a severance package at least equal to the severance package granted to Mr. Richard (full year's salary, one year of health benefits coverage, a company owned computer, the option of purchasing his company owned car for "Blue Book" value, and an ASCL paid for speaking engagement trip to Australia). Therefore, a severance package had been given serious consideration before that was "genuinely independent of the candidacy."

The finding that ASCL's severance package is "too discretionary" to meet the standard of 11 CFR 113.1(g)(6)(iii)(A) and (B) is unrealistic. As you observe, ASCL is a Louisiana non-profit corporation currently employing five people. Its primary business purpose is promoting and protecting the U. S. sugar cane industry (growers and processors). Because of its daunting task, it devotes minimal time and expense to formulating complex human resource policies, programs and procedures that might be designed to address Federal Election Law issues in the event one of its employees might run for Congress. It remains flexible and devotes maximum time and expense to its primary purpose. Therefore, all employee policies, especially with respect to termination and severance benefits (if any) are and should remain discretionary in such a small organization.

Furthermore, the requirement of 11 CFR 113.1(g)(6)(iii)(C) is discriminatory against a small organization such as ASCL, because there never has been a "similarly qualified person for the same work over the same period of time." The regulation seems to provide that unless there is a history

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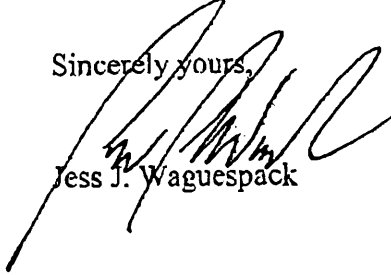
Ms. Mary Dove  
March 26, 2004  
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of granting severance packages to prior employees, then *any* severance package would be in violation of the regulation. Mr. Melancon's tenure and performance were unique and deserving of compensation that could only result from his employment. Even if ASCL had never granted a severance package to any of its employees, that should not preclude ASCL from now granting one to its terminated executive director.

The conclusion is that some years ago ASCL was ready and willing to grant Mr. Melancon a severance package more generous than the one under current consideration. This only serves to confirm that the current severance package is "tied exclusively to services provided by him as a part of his *bona fide* employment" and not for any other reason.

I respectfully submit that the judgment and discretion of the Board of Directors of ASCL should be respected in this instance, and any severance package providing for one year's compensation with related benefits should be allowable under applicable regulations.

Sincerely yours,



Jess J. Waguespack

JJW/mgs

cc: Office of General Counsel Via FAX (202) 219-3923

Paul G. Barron III Via FAX (225) 687-9695

Charles J. Melancon (985) 369-7730

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March 26, 2004

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Ms. Mary Dove, Commission Secretary  
Federal Election Commission  
999E Street NW  
Washington, D.C. 20463

RE: Draft Advisor Opinion 2004-08: American Sugar Cane League

Dear Ms. Dove:

I have served on the Board of Directors of the American Sugar Cane League since 1991. I am familiar with the tenure of Charles Melancon. I recall that in 2001 when Charles had considered leaving the League to pursue other opportunities I participated in discussions with him and other Board members regarding a severance package which consisted of no less than one year's compensation. It was a unanimous vote by the Board to offer the severance package now in question.

The current decision to award a severance package is simply a continuation of these discussions and is no way related to what he might or might not do after he resigned his position as President and General Manager.

Sincerely,



Charles L. Thibaut  
Board of Directors  
American Sugar Cane League

cc: Office of General counsel Via A FAX (202) 219-3923  
Charles Melancon